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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION III
841 CHESTNUT STREET
PHILADELPHIA, PENNSYLVANIA 19107
(215) 566-2497
FAX: (215) 566-2603

February 1, 2000

VIA FACSIMILE and OVERNIGHT MAIL

Warren K. Rich, Esq.
Rich and Henderson, P.C.
Attorneys at Law
844 West Street
P.O.Box 589
Annapolis, Maryland 21404-0589

RE: 68th Street Dump Site

Dear Mr. Rich:

This letter is in response to your correspondence of January 31, 2000. The recurring theme of your correspondence has been that your client will grant access to EPA when the Agency establishes the basis upon which access is sought. Simply stated, the Agency seeks access so that the sources of contamination present at the Site in the sediment, soil, surface water and groundwater may be further characterized.

EPA is authorized to enter property pursuant to section 104(e) of CERCLA where the Agency has "a reasonable basis to believe that there may be a release or threat of release of a hazardous substance or pollutant or contaminant". EPA's belief that a release is occurring, or threatening to occur, is based upon prior sampling or assessments at the Site performed by EPA and MDE. These prior assessments revealed the presence of human and environmental toxins as well as known or suspected carcinogens.

Clearly, EPA has the statutory authority for access to your client's property. Where consent to enter is not provided, EPA may issue an administrative order requiring that access be provided or request that the Department of Justice file an action in Federal Court seeking court-ordered access (see section 104(e)(5) of CERCLA, 42 U.S.C. § 9604(e)(5)). Violation of such administrative and/or court order may subject the owner to significant penalties.

Despite your assertions that your client is not refusing the Agency's request for access, consent has not been granted. *Accordingly, if EPA does not receive the executed access form tomorrow that was forwarded to your office by facsimile and overnight mail on January 31,*

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2000, EPA will assume that your client has denied access to the property within the meaning of 42 U.S.C. § 9604(e)(5). EPA may then take such steps as may be necessary to secure access to the property.

Please do not hesitate to contact me at (215) 814-2497 concerning this matter.

Very truly yours,



Ami Y. Antoine
Senior Assistant Regional Counsel

Enclosure
cc: Jennifer Chan

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I consent to officers, employees, and authorized representatives of the United States Environmental Protection Agency entering and having access to my property for the purpose of a walk-through Site visit from February 3, 2000 through February 10, 2000. I understand that EPA will not conduct any sampling or testing during the Site visit. I realize that the action by EPA is undertaken pursuant to its response and enforcement responsibilities under the Comprehensive Environmental Response Compensation and Liability Act (Superfund), 42 U.S.C. Section 9601 et. seq.

Date: _____

By: _____

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